

EXHIBIT A

PLAINTIFFS' EXHIBIT 18

From: Bebee, Tim J.

Sent: Wednesday, September 24, 2008 8:46 AM

To: Muller, Gerald M.; Morton, Dave B.; Erickson, Jeff L.; Roberson, Kevin D.; Leske, Korin L.; Waltz, Mark A.

Subject: antitrust

Attachments:

Redacted

This is why I am very sensitive on comparing (actual discussions) with competitors at this time.

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THE WALL STREET JOURNAL.
WSJ.com

SEPTEMBER 23, 2008

By JOHN R. WILKE

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Series of Exports

Redacted

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But producers of fresh eggs have coordinated their efforts to raise prices, according to industry participants and a Wall Street Journal review of industry documents.

Fresh-egg farmers acted together through a series of export shipments, organized by United Egg Producers, an industry cartel whose 250-plus members include virtually all of the nation's big egg producers. By removing a small fraction of eggs that would have been bound for U.S. sales and arranging instead for their export, United Egg helped tighten domestic supply and drive up the price of eggs across the country, according to newsletters and other documents that United Egg sent to its members.

After three years without significant exports, United Egg shipped nearly 100 container loads, or 24 million dozen fresh eggs, to Europe and the Middle East at the end of 2006 and early 2007, industry participants say. Each member was required to provide a share of the sale, prorated by flock size. The orders were sold at below the prevailing U.S. price for fresh eggs, United Egg said.

The industry group itself credited the campaign with helping to boost domestic egg prices, which rose more than 40% in the next year. Gene Gregory, the Georgia-based group's executive director, said export orders amounted to less than 2% of industry output. "But it is amazing how one or two percent can have an effect on the rest of your domestic price," he said.

Egg prices began to soften in March 2008. United Egg put together another export order. It sent 100 container loads, this time to buyers in Japan and Iraq, again selling them at well below the domestic price. U.S. egg prices shot up again in the summer. United Egg says it is in the process of shipping 120 more container loads.

The U.S. Agriculture Department's chief economist said that while higher feed costs have played a part in lifting egg prices, the primary causes for price rises through 2007 and into 2008 were limited production and tight supply.

"In 2007, table-egg producers cut production," a decision that predated the run-up in feed costs, the Agriculture Department economist, Joseph Glauber, said in congressional testimony in May. "In 2007, the wholesale price for a dozen Grade A large eggs in New York averaged \$1.14 per dozen, 43 cents higher than the previous year," Dr. Glauber testified.

The exports followed a previous effort by United Egg to limit supply by pressing members to cut the size of their flocks. In 2004, according to members and internal documents, the group pressed its members to increase the sizes of their hen cages, a response to the growing number of producers advertising "cage free" eggs and the threat by some states to introduce new animal-treatment

rules.

But bigger cages also mean farmers can keep fewer hens in the same space. United Egg warned its members not to build additional cage capacity to make up for these flock reductions, according to its internal newsletters. Producers that raised flock size risked being removed from United Egg's "animal-care certified" logo program.

Mr. Gregory, the United Egg executive, said that the program "was not done to raise prices. We phased in these cage-size restrictions over several years to avoid market disruptions."

Before United Egg's export initiative and the industry's flock reductions, the egg industry had a boom-and-bust history of profit and overproduction.

The industry leader, Cal-Maine Foods Inc., of Jackson, Miss., has enjoyed sharply higher share prices and profit in the past two years. In the year ended July 28, it reported that higher egg prices helped push net income to \$152 million, from \$37 million a year earlier. Its shares traded as high as \$48.80 in August. Cal-Maine shares have slipped recently, to \$40.36, still well above the August 2006 price of \$7.42.

'Golden Age'

"Greece had its Golden Age...and now the U.S. egg industry is having its turn," Watt's Egg Industry newsletter boasted in its February edition. "Egg prices have soared at historic highs through months in which producers usually hold on for dear life."

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10/23/08 7:30 AM

Write to John R. Wilke at john.wilke@wsj.com

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PLAINTIFFS' EXHIBIT 111

From: Baker, Terry L.
Sent: Tuesday, March 14, 2006 7:01 PM
To: Ostrander, Gregg A.; Clarkson, JD
Cc: Catherman, Toby L.; O'Brien, S. Vince; Sparish, Diane M.; Elliott, Michael A.
Subject: RE: Update on UEP RE: Conagra

Gene did not comment directly or respond to the restraint of trade point. Without speaking directly to the restraint issue, he did in a round about way seem to acknowledge there are issues and questions with the current rules as they stand today. He also stated in the event there were any other inquiries from non-certified companies involved directly in the industry, he felt that there are issues of "fairness or equity" with the various member companies involved, and that until a transition plan to convert is approved and offered to the non ACC companies, he would not be issuing or approving any non-certified producer marketing licenses. (Sunnyfresh).

From: Ostrander, Gregg A.
Sent: Monday, March 13, 2006 3:59 PM
To: Baker, Terry L.; Clarkson, JD
Cc: Catherman, Toby L.; O'Brien, S. Vince; Sparish, Diane M.; Elliott, Michael A.
Subject: RE: Update on UEP RE: Conagra

Did Gene have any comment to your last point re: restraint of trade?

Gregg A. Ostrander
 Michael Foods, Inc.
 301 Carlson Pkwy
 Suite 400
 Minnetonka, MN 55305
 952-258-4000

-----Original Message-----

From: Baker, Terry L.
Sent: Monday, March 13, 2006 12:03 PM
To: Clarkson, JD; Ostrander, Gregg A.
Cc: Catherman, Toby L.; O'Brien, S. Vince; Sparish, Diane M.; Elliott, Michael A.
Subject: Update on UEP RE: Conagra

I did connect with Gene Gregory late Friday and again this AM for some additional follow-up questions. Gene did confirm that UEP received a call from Conagra requesting what their requirements would be to utilize the UEP ACC logo. Conagra did offer to Gene that they were considering converting their specifications to require the UEP AC certification from their suppliers. After some internal discussion at UEP, Gene explained that as they reviewed the Conagra request for the use of the logo, they ultimately determined that in Conagra's case, they are considered a food processing company and are not directly involved in the egg industry because they only purchase liquid egg for inclusion in another product. They do not break or have any connections to the production side of the industry. They would be similar to a Kraft or Unilever purchasing tankers of liquid egg product to utilize in their food processing operations. With this classification, he said they determined that Conagra would not be required to apply for a non-certified marketing license. The only requirement from UEP for Conagra was that they were to send a letter to each of their egg suppliers stating that they only purchase ACC certified product and therefore, there would be no co-mingling of the egg product with non-certified product. As of today, Gene said the UEP program has no provisions requiring any audits of processors or food companies who do request to use the logo, but this issue will need to be addressed in the future. Based on Gene's discussion with Conagra, it would appear they are planning to move to only ACC egg product which would enable them to use the logo.

Based on what we know of their purchasing, we believe they purchase only pasteurized tankers of whites, which in the past have been primarily from Wabash Valley who is ACC, a smaller quantity from Sparboe, and fill in loads from Sonstegard and other breakers.

After the Conagra discussion, I then asked if the same rules would apply if Sunnyfresh were to request the use of the AC logo. Gene confirmed that in the case of Sunnyfresh, they are too involved in the egg industry and have direct supply contracts with producers and the farm side and that in no way would there be a license issued to

Sunnyfresh or that they would allowed to use the logo until the whole issue is settled with Michaels.

In strict confidence, he also informed me that UEP had received inquiries from someone at Moark/Golden Oval asking that if the sale of the Moark processing facilities was official, would they be able to continue to use the logo on the Land O Lakes labeled product. His answer to them was absolutely no, unless Golden Oval would consider some type of transitional plan to commit to being on the UEP ACC program, similar to what UEP would like us to consider.

I strongly suggested to Gene that we obviously are following these issues and while we are not currently contemplating any legal issues, we have discussed internally if any of these scenarios would be considered restraint of trade issues.

PLAINTIFFS' EXHIBIT 330

COOPERATIVE EXTENSION
UNIVERSITY OF CALIFORNIA

RIVERSIDE, CALIFORNIA 92521

FAx

March 17, 1995

Al Pope
United Egg Producers
1303 Hightower Trail Suite 200
Atlanta, GA 30350

Not For Publication

Dear Al,

I see that some of your members are bashing "molting" again. This sounds like the argument "do guns kill people or people kill people". Molting is not responsible for overproduction any more than feed is. We should restrict everyone to 60 pounds of feed per hen per year - this would really reduce egg production.

I can't understand the philosophy that the industry would be better off with a thousand 100,000 hen houses filled with 95,000 hens each laying at an 80% rate compared to a thousand 100,000 hen houses filled with 90,000 hens each laying at a 75% rate. When I multiply these two conditions out, I wind up with 77 million cases for the "all pullet" flock compared to 68 million cases for the "two cycle" flock - a 20% higher level of production in the "all pullet" scenario.

Molting is done to save costs - not to produce more or as many eggs. If anyone believes that doing away with molting will leave houses empty, they really don't understand the mentality of businessmen. Outlawing or limiting the use of molting is a ridiculous and poorly thought-out remedy for the real problem - too many 100,000 houses !

I think UEP would do its membership a much greater service by recommending an increase in the use of molting rather than its elimination. Another option would be for UEP to take a stronger stand on the question of space allowances. This would really have pay-back potential for your members.

I'm really not mad at anyone !!

Sincerely,

Don Bell

Donald Bell, Poultry Specialist
Highlander Hall, Room 142
University of California
Riverside, CA, 92521

PLAINTIFFS' EXHIBIT 576

From: Gene Gregory <gggregory@unitedegg.com>
Sent: Wednesday, September 24, 2008 8:57 AM
To: Al Schimpf <als@sreggfarm.com>; Amon Baer <eggs@rrt.net>; Baker, Dolph <dbaker@cmfoods.com>; Barrie Wilcox <bwilcox@wilcoxfarms.com>; Bill Rehm <william@daybreakfoods.com>; Bob Krouse <bob@mpslp.com>; Brian Barrett <brian@feathercrest.com>; Clanton, Gregg <glclanton@earthlink.net>; Cliff Lillywhite <clillywhite@oakdell.com>; Coke Anderson <cokea@webbwireless.net>; Craig Willardson <cwillardson@moarkllc.com>; Dana Persson <dpersson@goldenoveggs.net>; David Lathem <dlathem@landrfarmsinc.com>; Deffner, Roger <rdeffner@natlfood.com>; Glenn Hickman <ghickman@hickmanseggs.com>; Gordon Satrum <gsatrum@willamette-egg.com>; Herbruck, Steve <sherbruck@herbrucks.com>; Jerry Kil <jkil@moarkllc.com>; Jim Brock <jhbrock@bellsouth.net>; Jim Dean <jdean@oskyfoods.com>; John Sperry <john.sperry@yahoo.com>; Kevin Haley <khaley@brannlaw.com>; Kurt Kreher <kurt@krehereggs.com>; Larry Seger <lseger@wabashvalleyproduce.com>; Marcus Rust <marcus_rust@goodegg.com>; Mark Oldenkamp (Skylane) <moldenkamp@vffi.com>; Mike Bynum <mbynum@tampafarms.com>; Mooney, Wayne <WMOONEY@PILGRIMSPRIDE.COM>; Ron Truex <Ron@cb-cl.com>; Scott Braswell <scottbmc@aol.com>; Steve Gemperle <sgemperle@gemperle.com>; Terry Baker <terry.baker@michaelfoods.com>; Tom Hertzfeld Jr. <sales@hpfeggs.com>; Gary West (JS West) <gwest@jswest.com>; Bob Pike <bobbmc@aol.com>; Dave Thompson <pearlvalleyeggs@aol.com>; Derek Yancey <DYancey@morningfresh.com>; Wayne Winslow <wwinslow@nucalfoods.com>
Cc: Kevin Haley <khaley@brannlaw.com>; mmcLeod@mwmlaw.com; mhead@golinharris.com; chaduep@unitedegg.com
Subject: Wall Street Journal

To All:

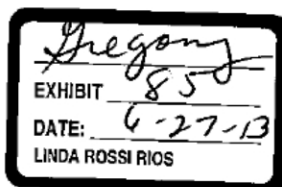
Since many of you have either read or heard of the September 23rd article (the Wall Street Journal, I feel compelled to provide a little background.

Some weeks ago I received a call from the reporter (John Wilke) who has spoken with me previously about our animal welfare program. This call came asking me what I knew

For concern about security, I will not detail any further information other than to say that the reporter questioned me about exports. What he wrote in the September 23rd article is certainly not a fair assessment of our conversation.

The bottom line is this. Once again, our comments were not presented fairly in the article.

Here is the most disturbing part about the article. Mr. Wilke says a number of times that he got information from



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NUCAL-08md2002-0056239

UEP newsletters and letters to members. Why any member would share private information with a reporter is beyond my understanding.

If you have questions, you are welcome to give me a call.

Gene

PLAINTIFFS' EXHIBIT 754

What Happens If 100% Committed Is Changed?

Some producers continue to challenge the Board policy in which a company must commit to meeting UEP's guidelines on 100% of their facilities in order to be recognized by UEP as a certified company.

While this policy has been discussed at three previous Board meetings, the UEP staff, Board and Committee are more than willing to listen and consider ideas that could improve the program. Working through the committee chairman and Board Chairman, we will give those with new ideas an opportunity to present these ideas before the committee while keeping in mind that the democratic process must prevail.

The program remains voluntary. Producers can chose whether or not to participant in the certification program.

It, however, must be understood that staff is obligated to carry out Board policy once decisions are reached.

Let's first review past discussions and motions that have addressed the issue of 100% commitment.

October 18, 2001 = Motion made by Krouse and seconded by Bynum.

*"Recommends the adoption of the **Time Period for Implementation of guidelines for presentation to FMI based upon using the average space allowance concept and mileposts for achieving this as presented by Ken Looper.***

Staff and producers took the above motion to FMI and NCCR and presented the time period for implementation and "house average" concept. UEP sold FMI and NCCR on the benefits of adopting this plan. The benefits were identified as:

- 1. Provided a level playing field for both egg producers and the marketplace.*
- 2. Provided the least amount of market disruption.*
- 3. Provided for the least costs manner in which to reach the ultimate space requirements.*

FMI and NCCR had previously acknowledged the problems associated with individual members following the initiatives taken by McDonalds and Burger King. They wanted to avoid one member trying to "out do" the other and having several different guidelines being required by their members.

FMI and NCCR wanted to approve guidelines for each commodity and recommend their members endorse these guidelines rather than they being market driven by individual members

FMI and NCCR accepted the "house average" space allowance and phase-in time period.

January 14, 2002 = Motion was made by Looper and seconded by Fortin:

“Recommend that 100% of producer/packer facilities being certified as on the UEP welfare program starting with April 1, 2002 then revisit the issue by October’s annual meeting to determine if certification should be based upon house, complex, or company status.”

February Area Meetings:

During the period of February 18 through February 28 a series of area meetings were held across the country (with more than 200 people in attendance) for the sole purpose of discussing UEP’s animal welfare program and to advise the members of the latest policies adopted by UEP’s Board of Directors. Producer’s input was requested at each meeting.

Producers, at these area meetings, by a vast majority expressed the following opinion:

A company should only be considered as a certified company if the company implemented the guidelines on 100% of their facilities.

The producer input was presented to the Producer Committee on March 26 and then to the UEP Board on April 4th.

April 4, 2002 = The following motions were made:

Motion made by Bynum and seconded by Maust: *“To change the status of a Certified Company from 100% producer packer facilities to 100% of a company facilities regardless of where or how eggs may be marketed.*

Motion made by Arias and seconded by West: *“To require any company coming on late in the program with layers housed after August 15, 2002 the need to adjust each flock hatched after April 1, 2002 to meet the space allowance guideline at that time.*

Motion made by Arias and seconded by Hertzfeld: *“To require that no more eggs be marketed as certified than those produced by the certified company or purchased from other certified companies.*

June 2002:

FMI and NCCR endorse UEP guidelines and recommend that their members require egg suppliers to meet these guidelines.

October 10, 2002 = The following motions were made:

Motion made by Truex and seconded by Bahan: *“To reconfirm the status that a company must commit to implementing the welfare guidelines on 100% of all production facilities regardless of how or when eggs may be marketed. The 100% commitment is intended to be inclusive of all company entities, affiliates, etc. The intent of the motion was that whoever manages or controls the entity must be responsible for meeting the 100% commitment.*

Motion made by Sperry and seconded by Hertzfeld: *“That egg products or shell egg processing plans with or without production can supply customers with certified animal welfare egg products or animal welfare shell eggs by purchasing eggs from a certified producer. The egg products plant or shell egg processing plant would have an audit no less than annually for the purpose of confirming that the sale of certified product or eggs did not exceed the purchase of certified eggs. The egg products plant or shell egg processing plant would use the certification number and seal of the producer or producers who produced the certified eggs.*

Motion made by Lofgren and seconded by Bahan: *“That a certified company or any marketer may not co-mingle and sell as certified eggs any eggs purchased from a non-certified producer regardless of how or where the eggs may be marketed.*

Producer Support For the Program:

Producers, not staff, have been the driving force for the growth of the industry commitment to current levels of nearly 200 companies and more than 220 million laying hens. Following the adoption of the 100% commitment the following occurred:

1. Many producers said they would only commit to the program if 100% of facilities were required.
2. Many producers have established a policy that they will only purchase eggs from other producers that are committed to the program.
3. Producers representing 80% of the industry have supported this program as validated by their sign-up.

Will these producers and others withdraw their support for the program if the 100% commitment is changed?

The Marketplace and USDA:

USDA became far more interested in providing audit services once the decision was reached to require the 100% facility commitment. Will they continue to provide auditing if the 100% commitment was changed?

FMI and NCCR are fully aware of the 100% commitment. Will they withdraw their support if the 100% commitment is changed?

Many retailer grocers and food service suppliers have called upon their suppliers to meet these guidelines. They are aware of the 100% commitment. Will they withdraw their support if this 100% commitment is changed?

While producers have signed and made commitments to UEP, it is disappointing that FMI and NCCR have not required commitments from their members. Nevertheless, we know at least the following companies have set a trend, which will likely be followed by most of the marketplace:

A & P	Albertson's	Belair Markets
Clemens	Costco	Cross Lake
Fleming	Food Lion	Friedman
Fry's	Harris-Teeter	HEB
IGA	King Kullen	Kroger
Marsh	Mauna Kea	Meijer
Private Selection	Publix	Quality Food Center
Raley's	Ralphs	Red Apple Markets
Rosauers	Sam's Club	Save Mart
Safeway	Schnuck's	Shaw's
Shop Rite	Shurfine	Stop N Shop
Sysco	Thriftway	Tops
U-Save	Wal-Mart	Wegmans
Western Family	Yokes Fresh Market	

Recovery of the Costs:

Regardless of whether your customer is a shell egg buyer or an egg products buyer, there is cost involved.

For a variety of reasons, producers have adopted this program while recognizing there is costs involved to implement the program that must be recovered in some manner. Each may have a different idea of how these costs will be recovered. Some of the thoughts are as follows:

1. Pass on the costs to their customers. (Only allow the use of the **Animal Care Certified** logo to those customers that agree to pay the costs.
2. Hope that Urner Barry will recognize and incorporate the additional costs in the quote.
3. Hope that as guidelines are implemented the flock size will decline and egg prices will increase to more than cover the costs.
4. In a free enterprise system, in the long-term, costs will be reflected in the prices to customers.

Conclusion:

Were it to be determined that the 100% commitment should be terminated, the following could occur:

1. The program would then become a customer driven program and the guidelines would only be implemented for the customers requiring it. The guidelines would then be phased-in as each customer came onto the program. Each individual retailer, restaurant, or food service customer could decide whether they would allow beak trimming or molting. Each individual customer could decide if they wanted their supplier to meet 67 square inches per bird immediately.
2. UEP's program will no longer be in the hands of producers.
3. We will likely lose USDA as an independent 3rd party auditor.
4. Audits would very likely be done for individual customers.
5. The industry would no longer have a level playing field.
6. Many if not most producers would cancel their commitment to UEP.
7. UEP would find it difficult to maintain a certification program and very likely this certification and the use of the **Animal Care Certified** logo would go away.
8. Are we implementing guidelines because it is "**the right thing to do**"? Are we implementing guidelines because the Scientific Committee says these improvements in welfare are needed? Shouldn't we implement guidelines for all birds, not just those birds producing eggs to meet a customer request this month or this year?
9. How can UEP support a Public Relations program when the industry is only committed to meeting each individual customer's needs?

While we appreciate the difficulty of meeting these guidelines and the costs involved, we would asked those that challenge the 100% commitment to consider ideas that will maintain UEP's credibility with the Scientific Committee, FMI, NCCR, USDA and the public.

Still the program remains voluntary and producers may chose whether or not to participate in the certification program.

PLAINTIFFS' EXHIBIT 755

To: Ken Looper[klooper@cmfoods.com]; Joe Fortin[JoeFortin@99MAIN.COM]; Paul Bahan[pjbahan@earthlink.net]
From: Gene
Sent: Thur 1/30/2003 1:58:13 PM
Importance: Low
Subject: October 18, 2001 = Motion made by Krouse and seconded by Bynum

Change 100% Commitment.doc

Paul, Joe, and Ken,

In preparing your thoughts for the meeting with Garth Sparboe, Bill Goucher, and Bob Krouse in Las Vegas, we wanted you to review the attached that we prepared in regard to the challenge of the 100% rule.

I think it is also important that we either hold a conference call prior to getting to Las Vegas or we meet the evening of February 11th. Maybe you want to have dinner together. Let me know what you would like to do.

Gene

To: Ken Looper[klooper@cmfoods.com]; Joe Fortin[JoeFortin@99MAIN.COM]; Paul Bahan[pjbahan@earthlink.net]
From: Gene
Sent: Thur 1/30/2003 1:58:13 PM
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